

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014110450

ORDER GRANTING STUDENT'S
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE, AND DUE PROCESS
HEARING DATES

On March 18, 2015, Student filed a request to continue the mediation, prehearing conference, and due process hearing dates in this matter, based upon the alleged need for additional psychological and developmental evaluations of Student. On March 23, 2015, Student filed a supplement to the request, which advised that the parties had agreed on continuance dates, and which included those continuance dates. Also on March 23, 2015, District filed a non-opposition to the Student's request, which essentially confirmed the information in Student's supplemental filing, and which also asserted that District agreed to the continuance because Student had expressed a willingness to participate in mediation.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. However, with the granting of this continuance, this matter has been continued twice on the grounds that Student has required further evaluations. With the granting of this continuance, Student will have had ample time to complete all evaluations. Therefore, **in the absence of extraordinary circumstances and detailed explanations of same, no further continuance requests shall be granted, regardless of whether the currently scheduled evaluations are completed in the time Student anticipates.**

Mediation:	May 5, 2015, at 9:30 a.m.
Prehearing Conference:	May 8, 2015, at 1:00 p.m.
Due Process Hearing:	May 19, 2015, at 9:30 a.m., and continuing day to day thereafter, Monday through Thursday as needed, at the discretion of the Administrative Law Judge. Unless otherwise ordered, the hearing shall commence at 9:30 a.m. on May 19.

IT IS SO ORDERED.

DATE: March 24, 2015

/s/

ELSA H. JONES
Acting Presiding Administrative Law Judge
Office of Administrative Hearings